S.B.CIVIL WRIT PETITION NO.2116/2005

Kishore Singh
v.
State of Rajasthan & Ors.

Date of Order :: 29th November, 2006

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. H.S.Sidhu]
Mr. J.S.Bhaleria] for the petitioner.
Mr. B.L.Tiwari, Deputy Government Advocate.

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The Rajasthan Non Government Educational Institutions Tribunal by its judgment dated 19.4.1997 quashed the order passed by the Managing Committee of Shri Sainath Vidhya Mandir, Badaili terminating the petitioner from service. A writ petition preferred by Shri Sainath Vidhya Mandir, Badaili and its Head Master before Jaipur Bench of this Court also came to be rejected by judgment dated 23.4.2004. The judgment dated 23.4.2004 stood affirmed by Division Bench of this Court under an order dated 1.6.2004. The petitioner after dismissal of appeal under order dated 1.6.2004 preferred an application before learned Civil Judge (JD), Merta City, Nagaur for execution of the judgment dated 19.4.1997 passed by the Rajasthan Non Government Educational Institutions Tribunal by computing the back wages in a tune of Rs.9,70,511/-. The executing court by its order dated 1.3.2005 dismissed the application for execution on the count that the tribunal did not allow any back wages to the petitioner, hence, this petition for writ is preferred.

A reply to the writ petition is filed on behalf of the respondent institution stating therein that the tribunal simply set aside the order of termination, therefore, no amount against wages could be give to the petitioner and, therefore, the civil court rightly denied to execute the order passed by the tribunal by computing the back wages.

Heard counsel for the parties.

It is not in dispute that the tribunal quashed and set aside the order terminating the petitioner from service. The quashing of the order means that the order never remained in existence. Once the order of termination has been set aside, there is no need to pass any order for making the payment of back wages and other consequential benefits. All these benefits flow as a natural consequence due to quashing of the order of termination. The intention of the tribunal, therefore, is quite clear that while quashing the order of termination it also allowed all back wages and consequential benefits to the petitioner. In view of it the executing court was required to execute the order of the tribunal by computing the wages required to be paid to the petitioner. The executing court erred while denying to do so.

Accordingly, this petition for writ is allowed. The order impugned dated 1.3.2005 is quashed. The executing court is directed to initiate the execution proceedings for compliance of the judgment dated 19.4.1997.

No order to costs.

(GOVIND MATHUR),J.

kkm/ps.